

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ERIK T. SANFILIPPO,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:05CV1696 RWS
)	
JAMES PURKETT,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Erik Sanfilippo. I referred this matter to United States Magistrate Judge Louis M. Blanton for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On August 27, 2008, Judge Blanton filed his recommendation that Sanfilippo's habeas petition should be denied.

Objections to Judge Blanton's Report and Recommendation were due to be filed by September 8, 2007. As of the date of this order, Sanfillipo has not filed any objection to the Report and Recommendation. After careful consideration, I will adopt and sustain the thorough reasoning of Magistrate Judge Blanton and will deny Sanfilippo's habeas petition for the reasons stated in the Report and Recommendation dated August 27, 2008.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir.


1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994). Because Sanfilippo has not made such a showing in this case, I will not issue a certificate of appealability. Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation filed on August 27, 2008 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner Erik Sanfillipo's Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 18th day of September, 2008.